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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOHN L. MARCANTONIO and JOSEPH M. MIKHAIL

Appeal 2009-008962
Application 10/773,384
Technology Center 2800

Before JOSEPH F. RUGGIERO, ALLEN R. MacDONALD, and
CARLA M. KRIVAK, Administrative Patent Judges.

KRIVAK, Administrative Patent Judge.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134(a) from a final rejection of
claims 28-33. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

STATEMENT OF THE CASE

Appellants' claimed invention relates to a networked clock radio (Spec. ¶ [0001]).

Independent claim 28, reproduced below, is representative of the subject matter on appeal:

28. A clock radio comprising:

an electronic time base to keep time;

a display device to display the time;

a control panel configured to receive local instructions, including local time set instructions and local alarm set instructions;

a communication interface configured to receive remote instructions, including remote time set instructions, remote alarm set instructions, and a remote audio data stream from a network device, wherein the remote audio data stream includes an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote computer that is configured to provide instructions to the network device to form the audio file playlist; and

a control module configured to set the time, to set an alarm, and to render the remote audio data stream in accordance with the local instructions and the remote instructions.

REJECTIONS

The Examiner rejected claims 28, 32, and 33 under 35 U.S.C. § 103(a) based upon the teachings of Herron (US 6,791,904 B1) and Bi (US 2004/0024688 A1).

The Examiner rejected claims 29-31 under 35 U.S.C. § 103(a) based upon the teachings of Herron, Bi, and Janik (US 2005/0113946 A9).

Appellants contend the combination of Herron and Bi fails to meet all of the limitations of the claimed invention (App. Br. 13-18).

ANALYSIS

Appellants argue Herron describes performing local control, rather than remote control, of a device to select audio content to be played on the device and the audio content is limited to the selection of categories, not particular items (App. Br. 13-14). Appellants also argue Bi does not disclose user interaction with a remote computer to specify an audio file playlist to stream to another device (App. Br. 15). Rather, Appellants assert, Bi describes using a personal computer to download selected songs to that same computer (App. Br. 17).

We agree with the Examiner's finding that Herron discloses "control of the local device 152 through a web-based client 110 (Fig. 1) which provides instructions to audio content server 140 (col. 8, ll. 11-26)" (Ans. 9). Thus, Herron meets the limitation "specified by a user through interaction with an interface output by a remote computer that is configured to provide instructions to the network device," as recited in claim 28. Herron also discloses using web-based client 110 to make selections of audio content that are automatically received by the clock radio 152 via audio content server 140 (col. 8, ll. 11-15, 21-26).

Although the Examiner agrees with Appellants that Herron discloses selecting categories of audio content to play on the clock radio, and not particular items as in an audio file playlist, the Examiner relies on Bi for this

limitation (*id.*). The Examiner finds Bi discloses connecting to a remote server from which a user on a client computing platform can select and stream songs from various playlists (Ans. 10; Bi Fig. 3, ¶ [0007]). The Examiner concludes, and we concur, this meets the limitation of “an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote computer,” as recited in claim 28 (Ans. 10). Appellants’ argument that Bi discloses streaming songs to a personal computer (App. Br. 17)—the same computer that is connected to the remote server for selecting songs—does not negate Herron’s disclosure of using a web-based client for selecting and sending audio content to a clock radio via an audio content server (Ans. 9). Further, the Examiner relies on Bi for teaching it would have been obvious to an ordinarily skilled artisan to stream an audio file playlist, rather than categories of audio content, to the clock radio of Herron (Ans. 9).

Therefore, the combination of Herron and Bi meets all the limitations of claim 28, including a communication interface on the clock radio configured to receive “a remote audio data stream from a network device, wherein the remote audio data stream includes an audio file playlist having a plurality of audio files specified by a user through interaction with an interface output by a remote computer that is configured to provide instructions to the network device to form the audio file playlist.”

Claim 28, and claims 32 and 33, which depend therefrom, are therefore obvious over Herron and Bi. Appellants make no new argument for patentability regarding claims 29-31, and thus the rejection of claims 29-31 is also sustained for the above discussed reasons.

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DECISION

The Examiner's decision rejecting claims 28-33 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED

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